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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/315,403	05/20/1999	PHILLIP C. HWANG	46000-0001	6483

3490 7590 04/19/2002

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832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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2167

DATE MAILED: 04/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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Office Action Summary

Application No.

09/315,403

Applicant(s)

HWANG ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/20/99 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☒ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☐ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 17) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____

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Claim Rejections - 35 USC § 112

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1, 23 and 24 the recitation of a clearance space is improper because space cannot be claimed. It is suggested that the space be defined in terms a structure, such as, the plane of the bottom surface and the inner surfaces of the sides of the rails.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haskins in view of John et al. and Shuert.

Haskins discloses the invention substantially as claimed; that is: Element 4 is read as the deck with a substantially rectangular shape; it has an upper surface defined by one double wall edge 6 which is U-shaped in cross-section; the deck has integrally formed two downwardly projecting rails 10,10 and a downwardly directed central support 34 which extends below the deck and has an pocket for receiving a like central support from a like tray stacked on top of it. The legs have stiffening ridges 20,26 spaced therealong. Re claim 5 ridges 20 are read as being disposed longitudinally of the edge length because no definition of what longitudinal is has been set up in the claim. Re claim 6; see drain holes 30. Re claim 15, the bridging ribs are read as elements 20.

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Haskins does not disclose pockets for receiving the legs from a tray stacked above or for receiving the central portion of the tray stacked on top of it. Also, there is no disclosure of using the spaced apart linear support members 46 with openings therebetween as part of the deck, and nor is there a disclosure to use radially extending strengthening ribs to effect strength since the deck surface is solid.

However, John et al. teaches a downwardly projecting central support which has a pocket which receives a correspondingly sized and shaped support of a tray which is stacked above it, in addition, John et al teach the use of pockets for the legs 24 which are sized and shaped to receive like legs of a tray disposed above it. John et al. does teach openings between linear support members 50,50.

It would be obvious to modify the tray in Haskins to include the centrally depending support 44 and openings which correspond the position of the legs of a try stacked above it since this would be desirable in the stacking of trays.

The claims recite a clearance space unobstructed between the rails except for the central portion. However, Shuert discloses forks of a hand truck 50 which extend between a central portion which is disposed between side rails. Applicant's member 10 is read as the bifurcated clearance made by portions 32, 32' of the truck 50 for receiving therebetween the central downward extending member in Shuert and thus is deemed to be the equivalent of applicant's device.

Re claim 9: the shape of the linear support members is deemed to be a matter of design. Re claim 10: Whether the ribs make a radial pattern or are in a grid like

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arrangement is deemed to be a matter of design. Re: claims 13 and 14: the ring 46 in John et al. is deemed to be the equivalent of a detent or bead to hold the stack the trays on top of each other. Re claim 17 and 19: whether the central portion is circular or polygonal is deemed a matter of design choice.

Applicant argues that the reversal of parts analysis is improper. The examiner finds it unnecessary to rely on this analysis on closer review of Shuert because the portions 32/32' of Shuert are effectively the equivalent of Applicant's member 20, thereby making the cooperating structure on the pallet equivalent.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

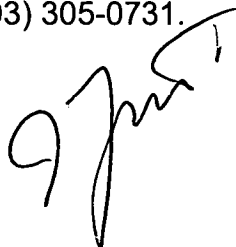
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

A handwritten signature in black ink, appearing to read 'J. Fischetti', is written over the end of the text block.